

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

LL
[REDACTED]

Reg. No: 201331222
Issue No: 2006, 3008
Case No: [REDACTED]
Hearing Date: March 21, 2013
Jackson County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received by the Department of Human Services (department) on February 25, 2013. After due notice, a telephone hearing was held on March 21, 2013. Claimant appeared and provided testimony. The department was represented by [REDACTED] an eligibility specialist, and Amy Connell, a family independence manager, both with the department's Jackson County office.

ISSUE

Whether the department properly closed Claimant's Food Assistance Program (FAP) benefits and Medical Assistance (MA) benefits due to a failure to verify necessary information?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. Claimant was a recipient of FAP and MA benefits at all times relevant to this hearing.
2. On January 15, 2013, the department mailed Claimant a Redetermination packet (DHS-1010), requiring Claimant to complete the form and return it to the department before her scheduled telephone interview date of February 5, 2013 at 1:30 p.m. in order that the department may determine her continued eligibility for the FAP and MA programs. (Department Exhibit 1)

3. Claimant did not complete and return the required Redetermination paperwork in advance of her scheduled telephone interview date of February 5, 2013.
4. On February 5, 2013, the department mailed Claimant a Notice of Missed Interview (DHS-254), informing Claimant that she missed her scheduled interview for a redetermination of her FAP benefits. Claimant was further advised that it was her responsibility to contact her specialist to reschedule the interview before February 28, 2013 or her redetermination would be denied, resulting in the closure of her FAP benefits. (Department Exhibit 2)
5. On February 15, 2013, the department mailed Claimant a Notice of Case Action (DHS 1605) notifying Claimant that her MA benefits would be closed effective March 1, 2013 because she failed to verify information necessary to determine her eligibility for the MA program.
6. On February 25, 2013, the department received Claimant's hearing request protesting the department's closure of her FAP and MA benefits, as well as Claimant's written statement wherein she advised the department in relevant part that: (i) she had been hospitalized in January 2013 and was still recovering; (ii) she understood that she had until February 28, 2013 to reschedule her redetermination interview; (iii) she required assistance in completing her yearly evaluation (ie. redetermination); and (iv) she requested help to straighten out her case as she could not afford to lose her MA and FAP benefits. (Request for Hearing)
7. On February 28, 2013, the department received Claimant's partially completed Redetermination paperwork.
8. Effective March 1, 2013, the department closed Claimant's FAP benefits case.

CONCLUSIONS OF LAW

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600. The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

The Food Assistance Program (FAP) was established pursuant to the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The department administers the FAP

program pursuant to MCL 400.10, *et seq.*, and MAC R 400.30001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

The Medical Assistance (MA) program was established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The department administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Department policy indicates that clients must cooperate with the local office in determining initial and ongoing eligibility with all programs. BAM 105. This includes completion of the necessary forms. Clients who are able to but refuse to provide necessary information or take a required action are subject to penalties. BAM 105. Clients must take actions within their ability to obtain verifications. BAM 130; BEM 702. Likewise, DHS local office staff must assist clients who ask for help in completing forms. BAM 130; BEM 702; BAM 105.

Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. BAM 130. The department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. BAM 130. If the client is unable to provide the verification despite a reasonable effort, the department must extend the time limit at least once. BAM 130. For MA, if the client cannot provide the verification despite a reasonable effort, the time limit is extended up to three times. BAM 130. Should the client indicate a refusal to provide a verification or, conversely, if the time period given has elapsed and the client has not made a reasonable effort to provide it, the department may send the client a negative action notice. BAM 130.

In the instant case, Claimant is disputing the department's closure of her FAP and MA benefits effective March 1, 2013 due to her failure to timely complete the redetermination process.

At the March 21, 2013 hearing, the department representative acknowledged that, prior to the February 28, 2013 deadline for Claimant's completion of the redetermination process, the department received from Claimant on February 25, 2013 her hearing request protesting the department's closure of her FAP and MA benefits, as well as Claimant's written statement wherein she advised the department in relevant part that: (i) she had been hospitalized in January 2013 and was still recovering; (ii) she understood that she had until February 28, 2013 to reschedule her redetermination interview; (iii) she required assistance in completing her yearly evaluation (ie. redetermination); and (iv) she requested help to straighten out her case as she could not afford to lose her MA and FAP benefits. The department representative further acknowledged that, on February 28, 2013, the department received Claimant's partially completed redetermination paperwork – however, the redetermination paperwork lacked Claimant's signature page or the required proofs of Claimant's income and assets.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). In evaluating the credibility and weight to be given the testimony of a witness, the fact-finder may consider the demeanor of the witness, the reasonableness of the witness's testimony, and the interest, if any, the witness may have in the outcome of the matter. *People v Wade*, 303 Mich 303 (1942), *cert den*, 318 US 783 (1943).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record and finds that, based on the competent, material, and substantial evidence presented during the March 21, 2013 hearing, because Claimant made a reasonable effort to timely complete the redetermination process and because Claimant requested but did not receive assistance from the department before the February 28, 2013 deadline, the department did not act in accordance with policy in closing Claimant's FAP and MA benefits effective March 1, 2013 for failure to provide the required verifications.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department did not act in accordance with policy in closing Claimant's FAP and MA benefits effective March 1, 2013 for failure to provide the required verifications. Accordingly, the department's actions are **REVERSED** and the department shall immediately reinstate and redetermine Claimant's FAP and MA eligibility, including but not limited to the gathering of any needed verifications, and issue supplement checks for any months Claimant did not receive the correct amount of benefits if she was otherwise entitled to them.

IT IS SO ORDERED.

/s/ _____
Suzanne D. Sonneborn
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 27, 2013

Date Mailed: March 28, 2013

NOTICE: Michigan Administrative Hearings System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

The Claimant may appeal this Order to Circuit Court within 30 days of the receipt of the Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - Misapplication of manual policy or law in the hearing decision,
 - Typographical errors, mathematical errors, or other obvious errors in the hearing decision that affect the substantial rights of Claimant;
 - The failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at:

Michigan Administrative Hearings System
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, MI 48909-07322

SDS/cr

cc:

